



Dave Lambertson
Director

COUNTY OF LOS ANGELES
Internal Services Department
1100 North Eastern Avenue
Los Angeles, California 90063

To enrich lives through effective and caring service.



Telephone: (323) 267-2101
FAX: (323) 264-7135

February 23, 2006

Agenda Date: March 7, 2006

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**REQUEST FOR APPROVAL AND AWARD OF
BUSINESS MACHINE MAINTENANCE SERVICES AGREEMENTS
(ALL DISTRICTS - 3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Authorize the Director, Internal Services Department (ISD), or his designee, to execute business machine maintenance services agreements, with the 17 companies listed on Attachment 1, effective April 1, 2006 for an initial term of three years with two one-year extensions and six one month extensions that may be exercised by the Director, ISD, or his designee, upon County Counsel's approval as to form.
2. Authorize the Director, ISD or his designee to add/delete equipment items, brands, and manufacturers in executed business machine maintenance services agreements; and execute applicable agreement amendments when the original contracting entity has merged, been purchased or has otherwise changed.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS:

ISD currently administers a variety of business machines maintenance services agreements that provide preventive maintenance and repairs of large photocopy machines, mainframe computers, servers and other major equipment items located throughout the County. These agreements currently expire on March 31, 2006. Your Board's approval of the proposed new agreements will allow ISD and other County departments to continue to receive equipment maintenance services.

IMPLEMENTATION OF STRATEGIC PLAN GOALS:

The recommended action supports the Countywide Strategic Plan Goal Number 1, Service Excellence; Goal Number 3, Organizational Effectiveness; and Goal Number 4, Fiscal Responsibility. These agreements will improve the overall manner in which ISD promotes countywide equipment maintenance; thereby, increasing the County's efficiency in the use of public funds.

FISCAL IMPACT/FINANCING:

Expenditures under these agreements will vary from year to year based on the needs of County departments. Typically, total services provided are approximately \$7 million per year. Funding for these services is included in the Fiscal Year 2005-06 adopted ISD and applicable departments' budgets. Subsequent year funding will be requested in the Fiscal Year budgets for each annual term and any extensions. Expenditures over the term of the agreements in any given year will remain within each department's budgeted appropriation for such services.

With one exception indicated on Attachment 2, the agreements are firm fixed price for the initial three-year terms and Cost of Living Allowances (COLAs) are allowed if the option years are exercised and may be granted in the option years at the discretion of the Director and only in accordance with the County policy on COLAs.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

On November 29, 2005 your Board approved ISD's request to extend the current equipment maintenance contracts with vendors for large photocopy machines, mainframe computers, servers and other major equipment items because we encountered delays in completing the contract negotiation process for the successor contracts. These vendors had either not yet agreed or had specifically taken exceptions to the County's standard terms and conditions included in the proposed business machine contract.

Of the 17 contracts for which we are seeking approval, nine firms have now agreed to the County's terms and conditions. However, in eight cases, exceptions were taken and these are detailed in Attachment 2. My staff discussed each of the insurance and indemnification exceptions taken by the firms with the Chief Administrative Office's Risk Management staff to determine the most advantageous position to best protect the County and attempted to obtain the firms' concurrence on the County's standard indemnification and insurance provisions. As noted on Attachment 2, most of the firms did not completely agree with those provisions and we had to accept their alternative

language since the services are not obtainable from other vendors due to the proprietary nature of the equipment (see Contracting Process below).

Except as detailed on Attachment 2, the agreements contain the Board's required contract provisions including those pertaining to consideration of qualified County employees targeted for layoff as well as qualified GAIN/GROW participants for employment openings, and compliance with the Jury Duty Ordinance, Safely Surrender Baby Law and the Child Support Program. The terms and conditions of eleven of the agreements have been approved as to form by County Counsel and the remaining six are in the final review process. ISD will execute these agreements upon approval as to form by County Counsel.

These are not Proposition A agreements due to the technical nature of the services provided and, therefore, not subject to the Living Wage Program (County Code Chapter 2.201). It has been determined that the services under these agreements do not impact Board Policy No. 5.030, "Low Cost Labor Resource Program", because of the specialized training needed to perform the work.

CONTRACTING PROCESS:

ISD issued competitive solicitations based on annual fixed price maintenance for a set inventory of items for the various types of large photocopy machines, mainframe computers, servers and other major equipment items. Notice of the solicitation documents availability was posted on the County website (Attachment 3). Responses were received and evaluated. For 12 of the solicitations only a single vendor responded. This occurred because the hardware and/or software requiring maintenance are proprietary to the manufacturer and no one else can perform the required services. As a result, contract negotiations took considerable time and effort and, in some cases we were unable to reach full agreement on the County's terms and conditions.

Although the terms and conditions were aggressively negotiated over the last 6 months, the exceptions described in Attachment 2 represent the best positions that could be reached by the parties involved. It is critical that the business machine maintenance services continue to be provided and we believe the proposed agreements represent manageable risk exposure to the County as services are provided only to do preventive maintenance or repair a piece of equipment if it breaks down. Additionally, we believe that risks associated with the agreements to maintain ISD's large scale computer equipment and uninterruptible power supplies is somewhat mitigated by the existence of similar equipment in the local recovery center located in Orange County that mirrors the operations.

The Honorable Board of Supervisors
February 23, 2006
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The alternative to the proposed agreements is that these pieces of equipment have no contracted maintenance coverage which is not a viable option. I recommend your Board approve the identified exceptions and accept the terms and conditions that were negotiated, based on the identified business needs for these services.

CBE information for all firms recommended for agreements is shown in Attachment 4. Contractors were selected without regard to gender, race, creed, or color for award of an agreement.

IMPACT ON CURRENT SERVICES (OR PROJECTS):

Approval of these recommendations will ensure that ISD and County departments continue to receive business machine maintenance services.

CONCLUSION:

The Executive Office, Board of Supervisors, is requested to return one stamped copy of the approved Board letter to the Director, ISD.

Respectfully submitted,

Dave Lambertson
Director

DL:KH:HAW:cc
Attachments (4)

c: Chief Administrative Officer
Executive Officer, Board of Supervisors
County Counsel

BUSINESS MACHINE MAINTENANCE SERVICE
RECOMMENDED VENDORS

**Large Photocopy Machines, Mainframe Computers,
Servers and Other Major Items of Equipment**

<u>Contractor</u>	<u>Type of Equipment</u>	<u>Estimated Annual Cost</u>
Bowe Bell & Howell Mail & Mess Tech	Mail processing equipment (outgoing)	\$ 29,000
Canon Business Solutions	High end copiers	746,000
Danka	High end copiers	127,000
DecisionOne Corporation	Midrange computers & printers	34,000
EMC Corporation	External hard drives	102,000
Hewlett Packard Corporation	HP large computer equipment	1,544,000
Identix Incorporated	Fingerprinting equipment	144,000
International Business Machines, Inc.	IBM large computer equipment	368,000
MGE	Uninterruptible power supplies	16,000
Neopost, Inc.	Mail processing equipment (outgoing)	46,000
Oce	High end copiers	816,000
Storage Technology Corporation	Large computer disk & tape storage equipment	766,000
Wiztec, Incorporated	Midrange computers	83,000
Unisys Corporation	Large scale computers (mainframe)	1,102,000
Upsco Power Safe Systems, Inc	Uninterruptible power supplies	68,000
Xerox	High end copiers	1,167,000
3M CO.	Library book security systems	92,000
Total		\$ 7,250,000

BUSINESS MACHINE MAINTENANCE SERVICES AGREEMENTS
NEGOTIATED AGREEMENT TERMS

Contractor & Equipment Type	Negotiated Terms That Depart from County's Required Language
Bowe Bell & Howell Company Bowe Bell & Howell Outgoing Mail Processing Equipment	<p>Limitation of Liability/Insurance and Indemnification – Bowe Bell & Howell limits its liability to its negligent or intentional acts and/or omissions provided the County promptly notifies them of any actual or threatened liability, damages, costs, or expenses; allows Bowe Bell & Howell full authority to defend or settle the claim or suit; and the County cooperates in the defense.</p> <p>Bowe Bell & Howell insisted that liability for direct damages be limited to the purchase price for the applicable service and that neither party will be liable for lost profits for other types of damages. This limitation applies to the indemnification provisions and the insurance provisions, so that the required policy limits are not available to the County and damages normally covered by the required insurance policy may not be available.</p> <p>Bowe Bell & Howell declined to provide copies of the additional insured endorsement naming the County as the additional insured but agreed to provide an insurance certificate with a statement that the required additional insured endorsement has been executed.</p>
Canon Business Solutions West, Inc. Canon High End Copiers	<p>Indemnification –Canon limits its liability to third party demands arising from or connected with the Canon's negligent acts and/or omissions provided the County gives prompt notice of any claim and gives Canon authority to assume sole control of the defense and settlement. Canon also insisted that it would indemnify the County against any violations of applicable laws, rules, regulations, ordinances, or directives, provided that County gives Canon 30 day notice of any claim and gives Canon authority to assume sole control of the defense and settlement.</p>
EMC EMC External Hard Drives	<p>Indemnification –EMC limits its liability to third party claims which result in bodily injury, death, personal injury or property damage.</p>
Hewlett-Packard Company Hewlett-Packard Computer Equipment	<p>Assignment and Delegation: The agreement contains the County's standard language that the characterizes a change in control of the firm as an assignment of the contract requiring prior County consent but Hewlett-Packard insisted on adding "which shall not be unreasonably withheld" to the clause.</p>

BUSINESS MACHINE MAINTENANCE SERVICES AGREEMENTS
NEGOTIATED AGREEMENT TERMS

Contractor & Equipment Type	Negotiated Terms That Depart from County's Required Language
Identix Incorporated Identix Fingerprinting Equipment	<p>Assignment and Delegation: The negotiated agreement includes language requiring the County's approval of an assignment but Identix would not agree to the characterization of a change in control of the firm as an assignment of the contract requiring prior County approval. Identix did concur to give the County notice of any such changes.</p> <p>Indemnification – Identix will fully indemnify the County provided the County provides notice of any claims or demand, allows Identix to take control of the defense and any related settlement negotiations, and cooperates in the defense and any related settlement negotiations.</p> <p>Limitation of Liability – Identix insisted on limiting its liability to the insurance general aggregate limit of \$2,000,000.</p>
International Business Machines Corp. IBM Large Computer Equipment	<p>Indemnification – IBM limits its indemnification to 3rd party claims for damages for bodily injury, including death, and damages to real or tangible personal property and all costs, damages and attorney's fees that a court finally awards provided County promptly notifies IBM of any claims, allows IBM to control the defense of any action or claim, and cooperates with IBM in the defense and any related settlement negotiations. This limitation applies to the indemnification provisions and the insurance provisions, so that the required policy limits are not available to the County and damages normally covered by the required insurance policy may not be available.</p> <p>Insurance – IBM insisted on deleting the following language "The County, at its sole option, may obtain damages from the Contractor resulting from said breach. Alternatively, the County may purchase such required insurance coverage, and without further notice to the Contractor, the County may deduct from sums due to the Contractor any premium costs advanced by the County for such insurance." and replacing it with " <i>and pursue any remedies to which it is entitled by law</i>"</p> <p>Limitation of Liability – IBM insisted on limiting its liability for damages to the damages for bodily injury (including death) and damage to real and tangible personal property and the amount of any other direct damages up to the greater of \$100,000 or 12 months of maintenance charges for the specific equipment that was damaged or that caused the damages. IBM will not be liable for loss of</p>

BUSINESS MACHINE MAINTENANCE SERVICES AGREEMENTS
NEGOTIATED AGREEMENT TERMS

Contractor & Equipment Type	Negotiated Terms That Depart from County's Required Language
	<p>or damage to data, special, incidental, or indirect damages or any economic consequential damages, lost profits, business, revenue, goodwill or anticipated savings.</p> <p>Employment Eligibility Determination – IBM insisted on removing the indemnification language associated with this provision and in the event IBM breaches this provision the County is not protected under the general indemnification language as agreed to by IBM.</p> <p>Nondiscrimination and Affirmative Action – IBM concurred with the provisions set forth in County Code Section 4.32.010 except they will not allow the County access to IBM's employee records to verify compliance with the provisions. IBM cited employee privacy and confidentiality concerns. IBM also insisted on defining the calculation of liquidated damages associated with breach of this provision as <i>"an act of Contractor affecting multiple employees shall be counted as a single violation"</i>.</p>
<p>MGE</p> <p>Uninterruptible Power Supply (Encased batteries)</p>	<p>Indemnification & Limitation of Liability – MGE will not be liable for special, incidental, indirect, speculative, remote, or consequential damages including but not limited to lost profits, lost savings, or lost revenues. The firm insisted on limiting their liability for damages to proven direct damages not to exceed \$250,000 per occurrence and \$500,000 in the aggregate. This limitation applies to the indemnification provisions and the insurance provisions, so that the required policy limits are not available to the County and damages normally covered by the required insurance policy may not be available.</p> <p>Cost of Living Increases (COLAs) – MGE requested that the standard COLA language that indicates in contract option years 4 and 5 that "the contract amount may be adjusted annually based on the increase or decrease in the ...Consumer Price Index" be revised to read "the contract amount may be adjusted annually based on the <i>increase</i> in the ...Consumer Price Index".</p> <p>Budget Reductions – MGE requested that the budget reduction language that states "the County reserves the right to reduce its payment obligation" be changed to read "the County reserves the right to reduce its <i>service</i> obligation".</p>

BUSINESS MACHINE MAINTENANCE SERVICES AGREEMENTS
NEGOTIATED AGREEMENT TERMS

Contractor & Equipment Type	Negotiated Terms That Depart from County's Required Language
	<p>Consideration of Hiring Gain/Grow Program Participants - MGE requested that the language stating "For this purpose, consideration shall mean that the Contractor will interview qualified candidates." Be changed to read "For this purpose, consideration shall mean that the Contractor will <i>screen</i> qualified candidates."</p>
<p>Unisys Corporation</p> <p>Unisys computer equipment</p>	<p>Indemnification – Unisys limits its indemnification only to claims that result in bodily injury, death, personal injury, or property damage and is excluded from liability and expenses of claims arising from active negligence of County.</p> <p>Limitation of Liability – Unisys requires a maximum cap amount for direct damages at the greater of \$5,000,000 or the aggregate monetary amount of the agreement and will not be liable for incidental, indirect or consequential damages.</p> <p>Note: These limitations are in the current Board approved agreement with Unisys.</p>
<p>3M</p> <p>3M Library Book Security Systems</p>	<p>Cost of Living Increases (COLAs) – 3M refused to agree to a fixed price for the first 3 years of the contract as well as the County's standard COLA language applicable to option years 4 and 5. The negotiated agreement contains a fixed price for year 1 with subsequent year price increases not to exceed 4% each year.</p> <p>Consideration of Hiring Gain/Grow Program Participants - 3M insisted on clarifying that they would only consider Gain/Grow participants if they needed personnel in Los Angeles County.</p> <p>Insurance - 3M agreed to carry the required insurance policies but would not agree to add the County as an additional insured on their policies and refused to agree to disclose any deductibles and self insurance retentions.</p> <p>Notice to Employees Regarding the Safely Surrendered Baby Law – 3M insisted that they would notify and provide the requisite fact sheet only to 3M employees in Los Angeles County. As</p>

BUSINESS MACHINE MAINTENANCE SERVICES AGREEMENTS
NEGOTIATED AGREEMENT TERMS

Contractor & Equipment Type	Negotiated Terms That Depart from County's Required Language
	a large, international company they indicated it was not feasible to notice all of their employees as the Board policy requires.

SOLICITATION ADVERTISEMENTS

Large Photocopy Machines, Mainframe Computers, Servers and Other Major Items of Equipment

Bid Number : I103641

Bid Title : Equipment Maintenance Services

Bid Type : Service

Department : Internal Services Department

Commodity : MAINT & REPAIR – High end copiers/Large scale computers/other equipment

Open Date : 12/16/2004

Closing Date : 2/15/2005 2:30 PM

Notice of Intent to Award : [View Detail](#)

Bid Amount : \$ 00,000

Bid Download : [Available](#)

Bid Description : Equipment maintenance and repair services for a wide range of equipment located at facilities throughout the County of Los Angeles. Includes maintenance and repair services for large high-end copiers, law enforcement evidence recording equipment, IBM midrange and large scale machines and DEC equipment.

Amendment Date : 1/13/2005 Addendum Number 2

Download Available	Addendum Number 2	Win Zip	682.41 K	AddendumNumber2I103641.zip
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Amendment Date : 1/27/2005 Addendum Number 3

Download Available	Addendum Number 3	Win Zip	652.29 K	AddendumNumber3I103641.zip
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Amendment Date : 2/7/2005 Addendum Number 4 - Extends proposal due date

Download Available	Addendum Number 4	WORD	956.93 K	Addendum4toEquipMaintRFPI103641.doc
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Contact Name : Cynthia Michael

Contact Phone# : (323) 881-5178

Contact Email : cmichael@isd.co.la.ca.us

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**COUNTY OF LOS ANGELES
COMMUNITY BUSINESS ENTERPRISE PROGRAM (CBE)**

Attachment 4

Large Photocopy Machines, Mainframe Computers, Servers and Other Major Items of Equipment

FIRM INFORMATION		Bowe Bell + Howell	Canon	Danka Office Imaging Company	DecisionOne	EMC	HP	IBM
OWNERS/PARTNERS	Cultural/Ethnic Composition	% of Ownership	PUBLICLY TRADED COMPANY	% of Ownership	% of Ownership	% of Ownership	PUBLICLY TRADED COMPANY	% of Ownership
	Black/African American	0%		0%	0%	0%		0%
	Hispanic/Latin American	0%		0%	0%	0%		0%
	Asian American	0%		0%	0%	0%		0%
	American Indian/Alaskan	Publicly Traded		Publicly Traded	Publicly Traded	Publicly Traded		Publicly Traded
	All others							
	Women (included above)	0%		0%	0%	0%		0%
		Number		Number	Number	Number		Number
	Number of owners/partners	0		0	0	0		0
		Number		Number	Number	Number		Number
MANAGER	Black/African American	4	PUBLICLY TRADED COMPANY	0	19	41	PUBLICLY TRADED COMPANY	1018
	Hispanic/Latin American	4		0	8	52		573
	Asian American	7		1	6	136		1078
	American Indian/Alaskan	0		0	2	4		106
	All others	170		1	339	2233		14719
	Women (included above)	24		0	96	551		4979
STAFF	Black/African American	120		5	522	450		10257
	Hispanic/Latin American	92		6	218	371		5427
	Asian American	51		3	171	1656		14079
	American Indian/Alaskan	6		0	74	31		716
	All others	1161		10	2778	10434		91926
	Women (included above)	144		6	812	2772		38221
TOTAL # OF EMPLOYEES		1617		26	4137	15408		139899
BUSINESS STRUCTURE		Corporation		Corporation	Corporation	Corporation		Corporation
County Certification								
CBE								
LSBE								
OTHER CERTIFYING AGENCY								

**COUNTY OF LOS ANGELES
COMMUNITY BUSINESS ENTERPRISE PROGRAM (CBE)**

Attachment 4

Large Photocopy Machines, Mainframe Computers, Servers and Other Major Items of Equipment

FIRM INFORMATION		Identix	MGE	Neopost	Oce	StorageTek	UNISYS	UPSCO Power Safe Systems, Inc.
Cultural/Ethnic Composition		% of Ownership	% of Ownership	% of Ownership	% of Ownership	% of Ownership	% of Ownership	% of Ownership
OWNERS/PARTNERS	Black/African American	0%	0%	0%	0%	0%	0%	0%
	Hispanic/Latin American	0%	0%	0%	0%	0%	0%	0%
	Asian American	0%	0%	0%	0%	0%	0%	0%
	American Indian/Alaskan	Publicly Traded	0%	0%	Publicly Traded	0%	0%	0%
	All others		0%	0%		0%	0%	100%
	Women (included above)	0%	0%	0%	0%	0%	0%	0%
		Number	Number	Number	Number	Number	Number	Number
	Number of owners/partners	0	0	0	0	0	0	1
MANAGER		Number	Number	Number	Number	Number	Number	Number
	Black/African American	2	2	6	14	27	12	0
	Hispanic/Latin American	3	7	10	14	21	13	1
	Asian American	1	5	7	9	23	23	0
	American Indian/Alaskan	0	0	0	1	4	0	0
	All others	44	67	108	429	556	279	1
	Women (included above)	9	14	29	106	35	78	0
STAFF	Black/African American	21	16	76	175	208	87	0
	Hispanic/Latin American	10	111	69	202	180	132	0
	Asian American	23	65	54	88	220	315	0
	American Indian/Alaskan	4	5	2	7	20	11	0
	All others	222	204	423	1599	3241	833	2
	Women (included above)	59	72	219	515	978	334	1
TOTAL # OF EMPLOYEES		330	482	755	2538	4500	1705	4
BUSINESS STRUCTURE		Corporation	Corporation	Corporation	Corporation	Corporation	Corporation	Corporation
County Certification								
CBE								
LSBE								
OTHER CERTIFYING AGENCY								

**COUNTY OF LOS ANGELES
COMMUNITY BUSINESS ENTERPRISE PROGRAM (CBE)**

Attachment 4

Large Photocopy Machines, Mainframe Computers, Servers and Other Major Items of Equipment

FIRM INFORMATION		Wiztec Inc.	Xerox	3M
Cultural/Ethnic Composition		% of Ownership	% of Ownership	% of Ownership
OWNERS/PARTNERS	Black/African American	0%	0%	0%
	Hispanic/Latin American	0%	0%	0%
	Asian American	0%	0%	0%
	American Indian/Alaskan	0%	Publicly Traded	Publicly Traded
	All others	100%		
	Women (included above)	25%	0%	0%
		Number	Number	Number
	Number of owners/partners	3	0	0
MANAGER		Number	Number	Number
	Black/African American	0	763	122
	Hispanic/Latin American	1	283	118
	Asian American	0	300	155
	American Indian/Alaskan	0	40	19
	All others	4	5340	4540
	Women (included above)	1	1851	1273
STAFF	Black/African American	0	6243	1141
	Hispanic/Latin American	1	3055	1217
	Asian American	0	2289	1099
	American Indian/Alaskan	0	282	158
	All others	5	32119	24284
	Women (included above)	2	15451	10297
TOTAL # OF EMPLOYEES		14	50714	32853
BUSINESS STRUCTURE		Corporation	Corporation	Corporation
County Certification				
CBE				
LSBE				
OTHER CERTIFYING AGENCY				